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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

Smith et al.,

Plaintiffs,

v.

Helzer et al.,

Defendants.

Case No. 3:22-cv-00077-SLG

UNOPPOSED MOTION FOR STAY
OF PROCEEDINGS

Earlier today, Plaintiffs filed a notice of appeal (Dkt. 49) of this Court's order denying their preliminary injunction motion (Dkt. 48). In the interests of judicial economy, Plaintiffs move this Court to stay proceedings in this case until that appeal is resolved.

As this Court recently explained, "When deciding whether to grant a stay, among those interests to be weighed are the possible damage which may result

from the granting of a stay, the hardship or inequity which a party may suffer in being required to go forward, and the orderly course of justice measured in terms of the simplifying or complicating of issues, proof, and questions of law which could be expected to result from a stay.” *United States v. Mendiola*, No. 3:08-cr-00119-SLG, 2022 U.S. Dist. LEXIS 85529, at *3 (D. Alaska May 11, 2022).

There will be no damage from such a stay. The stay will be short in duration: the Ninth Circuit’s rules provide an expedited briefing schedule for preliminary injunction appeals, no more than 77 days. Cir. R. 3-3(b). And the Ninth Circuit’s rules also grant priority in scheduling for panels and oral arguments to cases concerning preliminary injunctions and constitutional rights, as this case does. Cir. R. 34-3(3) & (5). And this case is not one in which evidence will go stale with the passage of time.

Second, there is a judicial economy to be gained by counsel and the Court from a better insight into the Ninth Circuit’s view of this case from a ruling on the preliminary injunction appeal. As this Court noted in *Mendiola*, “the parties and the Court have an interest in the Court applying the correct law to the instant motion. Resolution of the relevant issue by the Ninth Circuit will substantially aid this Court in determining [that motion] because the issue presented in this case is the exact issue the Ninth Circuit will be considering in [this appeal].” *Id.* at *4. A clear view of the correct law will assist this Court in determining the pending

motions to dismiss and save the Court and counsel from having to file and consider supplemental briefing or other proceedings if this Court proceeded now.

As a result, to the third factor, the orderly administration of the case will be aided by “simplifying” the “questions of law” presented. *Id.* at *3.

Other decisions of this District regarding concurrent proceedings are in accord.

See, e.g., Ditullio v. Boehm, No. 3:09-cv-0113 JWS, 2010 U.S. Dist. LEXIS 153835, at *5 (D. Alaska Aug. 25, 2010); *Alli v. Asrc Energy Servs.*, No. 3:16-cv-00280-TMB, 2017 U.S. Dist. LEXIS 228840, at *12 (D. Alaska Sep. 29, 2017).

See also Olson v. O’Brien, No. 3:11-cv-245 JWS, 2012 U.S. Dist. LEXIS 82268, at *11 (D. Alaska June 13, 2012).

Counsel for Plaintiffs contacted counsel for both the State Defendants and Intervenor Defendant, all of whom indicated they did not oppose a stay.

Wherefore, Plaintiffs request this Court enter a stay of briefing on the pending motions to dismiss and any other proceedings until the Ninth Circuit resolves their interlocutory appeal.

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